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Resolution adopted by the General Assembly on 18 December 2014

[*on the report of the Third Committee (A/69/488/Add.2 and Corr.1)*]

69/172. Human rights in the administration of justice

The General Assembly,

Bearing in mind the principles embodied in articles 3, 5, 6, 8, 9, 10 and 11 of the Universal Declaration of Human Rights[1] and the relevant provisions of the International Covenant on Civil and Political Rights and the Optional Protocols thereto,[2] in particular articles 6, 7, 9, 10, 14 and 15 of the Covenant, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto,[3] the International Convention for the Protection of All Persons from Enforced Disappearance,[4] the Convention on the Elimination of All Forms of Discrimination against Women,[5] in particular article 2 (c) thereof, the Convention on the Rights of the Child,[6] in particular articles 37, 39 and 40 thereof, and the International Covenant on Economic, Social and Cultural Rights,[7] as well as all other relevant international treaties,

Calling attention to the numerous international standards in the field of the administration of justice,

Recalling all the resolutions of the General Assembly, the Human Rights Council, the Commission on Human Rights and the Economic and Social Council that are relevant to the subject of human rights in the administration of justice, including General Assembly resolutions 65/213 of 21 December 2010 and 67/166 of 20 December 2012 and Human Rights Council resolutions 18/12 of 29 September 2011[8] and 24/12 of 26 September 2013,[9]

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[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex; and United Nations, *Treaty Series*, vol. 1642, No. 14688.

[3] United Nations, *Treaty Series*, vols. 1465 and 2375, No. 24841.

[4] Resolution 61/177, annex.

[5] United Nations, *Treaty Series*, vol. 1249, No. 20378.

[6] Ibid., vol. 1577, No. 27531.

[7] See resolution 2200 A (XXI), annex.

[8] See *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 53A* and corrigendum (A/66/53/Add.1 and Corr.1), chap. II.

[9] Ibid., *Sixty-eighth Session, Supplement No. 53A* (A/68/53/Add.1), chap. III.

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Recalling also its resolution 67/1 of 24 September 2012, entitled "Declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels",

Noting the report of the Secretary-General on strengthening and coordinating United Nations rule of law activities,[10]

Welcoming the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),[11]

Welcoming also the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems,[12]

Welcoming further the work of all special procedures of the Human Rights Council that address human rights in the administration of justice in the discharge of their mandates,

Taking note of the work of all human rights treaty body mechanisms on human rights in the administration of justice, in particular of general comments No. 21 on the humane treatment of persons deprived of their liberty[13] and No. 32 on the right to equality before courts and tribunals and to a fair trial,[14] adopted by the Human Rights Committee, and general comments No. 10 on children's rights in juvenile justice[15] and No. 13 on the right of the child to freedom from all forms of violence,[16] adopted by the Committee on the Rights of the Child,

Noting with appreciation the important work in the field of the administration of justice of the United Nations Office on Drugs and Crime, the Office of the United Nations High Commissioner for Human Rights, the United Nations Development Programme, the United Nations Children's Fund, the Department of Peacekeeping Operations of the Secretariat and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) as well as the work of the Special Representative of the Secretary-General on Violence against Children and the Special Representative of the Secretary-General for Children and Armed Conflict,

Noting with appreciation also the thematic report by the Special Representative of the Secretary-General on Violence against Children entitled "Promoting restorative justice for children",

Noting with satisfaction the work of the Interagency Panel on Juvenile Justice and of its members, in particular their coordination in providing technical advice and assistance in juvenile justice, and the active participation of civil society in their respective work,

Encouraging continued regional and cross-regional efforts, the sharing of best practices and the provision of technical assistance in the field of juvenile justice, and noting in this regard the initiative to convene a world congress on juvenile justice in Geneva from 26 to 30 January 2015,

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[10] A/68/213/Add.1.

[11] Resolution 65/229, annex.

[12] Resolution 67/187, annex.

[13] *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 40* (A/47/40), annex VI.B.

[14] Ibid., *Sixty-second Session, Supplement No. 40* (A/62/40), vol. I, annex VI.

[15] Ibid., *Sixty-third Session, Supplement No. 41* (A/63/41), annex IV.

[16] Ibid., *Sixty-seventh Session, Supplement No. 41* (A/67/41), annex V.

Convinced that the independence and impartiality of the judiciary and the integrity of the judicial system as well as an independent legal profession are essential prerequisites for the protection of human rights, the rule of law, good governance and democracy and for ensuring that there is no discrimination in the administration of justice and should therefore be respected in all circumstances,

Recalling that every State should provide an effective framework of remedies to redress human rights grievances or violations,

Emphasizing that the right to access to justice for all forms an important basis for strengthening the rule of law through the administration of justice,

Mindful of the importance of ensuring respect for the rule of law and human rights in the administration of justice as a crucial contribution to building peace and justice and ending impunity,

Recognizing the importance of the principle that, except for those lawful limitations that are demonstrably necessitated by the fact of incarceration, persons deprived of their liberty shall retain their non-derogable human rights and all other human rights and fundamental freedoms,

Recalling that the social rehabilitation and reintegration of persons deprived of their liberty shall be among the essential aims of the criminal justice system, ensuring, as far as possible, that offenders are able to lead a law-abiding and self-supporting life upon their return to society,

Aware of the need for special vigilance with regard to the specific situation of children, juveniles and women in the administration of justice, in particular while they are deprived of their liberty, and their vulnerability to various forms of violence, abuse, injustice and humiliation,

Reaffirming that children who are victims and witnesses of crime and violence are particularly vulnerable and require special protection, assistance and support appropriate to their age, level of maturity and needs, in order to prevent further hardship and trauma that may result from their participation in the criminal justice process,

Recognizing the specific situation and needs of children formerly associated with armed forces or armed groups when accused of crimes under international law allegedly committed while they were associated with armed forces or armed groups,

Reaffirming that the best interests of the child shall be a primary consideration in all decisions concerning the child in the administration of justice, including in relation to pretrial measures, as well as being an important consideration in all matters concerning the child related to sentencing of his or her parents, or, where applicable, legal guardians or primary caregivers,

1. *Takes note with appreciation* of the most recent report of the Secretary-General on human rights in the administration of justice, containing an analysis of the international legal and institutional framework for the protection of all persons deprived of their liberty;[17]

2. *Also takes note with appreciation* of the reports of the United Nations High Commissioner for Human Rights on the protection of human rights of juveniles deprived of their liberty[18] and on access to justice for children[19] and the

[17] A/68/261.

[18] A/HRC/21/26.

[19] A/HRC/25/35 and Add.1 and A/HRC/27/25.

joint report of the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children on prevention of and responses to violence against children within the juvenile justice system,[20] submitted to the Human Rights Council;

3. *Reaffirms* the importance of the full and effective implementation of all United Nations standards on human rights in the administration of justice;

4. *Reiterates its call upon* all Member States to spare no effort in providing for effective legislative and other mechanisms and procedures, as well as adequate resources, to ensure the full implementation of those standards;

5. *Invites* States to make use of technical assistance offered by the relevant United Nations entities and programmes in order to strengthen national capacities and infrastructures in the field of the administration of justice;

6. *Appeals* to Governments to include, in their national development plans, the effective administration of justice and equal access to justice as an integral part of the development process, with a view to promoting and protecting human rights, and to allocate adequate resources for the provision of legal aid services, and invites the international community to respond favourably to requests for financial and technical assistance for the enhancement and strengthening of the administration of justice;

7. *Stresses* the special need for national capacity-building in the field of the administration of justice, in particular through reform of the judiciary, the police and the penal system, as well as juvenile justice reform, and through the encouragement of independence, accountability and transparency in the judiciary, in order to establish and maintain stable societies and the rule of law in post-conflict situations, and welcomes the role of the Office of the High Commissioner in supporting the establishment and functioning of transitional justice mechanisms in post-conflict situations;

8. *Reaffirms* that no one should be unlawfully or arbitrarily deprived of his or her liberty, and notes the principles of necessity and proportionality in this regard;

9. *Calls upon* States to ensure that anyone who is deprived of his or her liberty through arrest or detention has prompt access to a competent court with the effective power to determine the lawfulness of the detention and to order release if the detention or imprisonment is determined not to be lawful and prompt access to legal counsel, in accordance with their international obligations and commitments;

10. *Affirms* that States must ensure that any measure taken to combat terrorism, including in the administration of justice, complies with their obligations under international law, in particular international human rights, refugee and humanitarian law;

11. *Notes* the work of the open-ended intergovernmental expert group to exchange information on best practices, as well as on national legislation and existing international law, and on the revision of existing United Nations standard minimum rules for the treatment of prisoners, and invites the expert group to continue its work and to conclude the review and update of the standard minimum rules, reiterating that any changes should not lower any existing standards but should improve them and reflect recent advances in correctional science and best

[20] A/HRC/21/25.

practices, as well as human rights standards, so as to promote safety, security and humane conditions for prisoners, and in this regard acknowledges that the expert group can benefit from the expertise of the United Nations Office on Drugs and Crime and of the Office of the High Commissioner and other relevant stakeholders;

12. *Recalls* the absolute prohibition of torture in international law, and calls upon States to address and prevent the detention conditions, treatment and punishment of persons deprived of their liberty that amount to cruel, inhuman or degrading treatment or punishment;

13. *Calls upon* States to investigate promptly, effectively and impartially all alleged human rights violations suffered by persons deprived of their liberty, in particular cases involving death, torture and cruel, inhuman or degrading treatment or punishment, and to provide effective remedy to the victims, in accordance with their international obligations and commitments;

14. *Urges* States to endeavour to reduce, where appropriate, pretrial detention, inter alia, by adopting legislative and administrative measures and policies on its preconditions, limitations, duration and alternatives and by taking measures aimed at the implementation of existing legislation, as well as by ensuring access to justice and legal advice and assistance;

15. *Encourages* States to address overcrowding in detention facilities by taking effective measures, including through enhancing the use of alternatives to pretrial detention and custodial sentences where possible, access to legal aid and the efficiency as well as the capacity of the criminal justice system and its facilities;

16. *Welcomes* the panel discussion on the protection of the human rights of persons deprived of their liberty, held during the twenty-seventh session of the Human Rights Council, which highlighted challenges and good practices for ensuring the protection of the rights of persons deprived of their liberty, in particular with regard to judicial oversight of detention, overcrowding and overuse of detention, including by examining the use of pretrial detention and alternatives to detention;

17. *Continues to encourage* States to pay due attention to the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)[11] when developing and implementing relevant legislation, procedures, policies and action plans, and invites relevant special procedure mandate holders, the Office of the High Commissioner, the United Nations Office on Drugs and Crime and all other relevant organizations to take those rules into consideration in their activities;

18. *Recognizes* that every child and juvenile alleged as, accused of or recognized as having infringed the law, particularly those who are deprived of their liberty, as well as child victims and witnesses of crimes, should be treated in a manner consistent with his or her rights, dignity and needs, in accordance with international law, bearing in mind relevant international standards on human rights in the administration of justice, taking into account also the age, gender, social circumstances and development needs of such children, and calls upon States parties to the Convention on the Rights of the Child[6] to abide strictly by its principles and provisions;

19. *Welcomes* the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice,[21] and urges States to consider applying them, as appropriate,

[21] Resolution 69/194, annex.

in the design, implementation, monitoring and evaluation of laws, policies, programmes, budgets and mechanisms aimed at eliminating violence against children in the field of crime prevention and criminal justice;

20. *Also welcomes* the Global Programme on Violence against Children in the Field of Crime Prevention and Criminal Justice recently developed by the United Nations Office on Drugs and Crime and the United Nations Children's Fund, which is intended to promote and assist in the effective implementation of the Model Strategies and Practical Measures, and encourages Member States and other relevant stakeholders to support and to benefit from this programme;

21. *Encourages* States that have not yet integrated children's issues into their overall rule of law efforts to do so and to develop and implement a comprehensive and coordinated juvenile justice policy to prevent and address juvenile delinquency and to address risks and causes for children's contact with the juvenile and/or criminal justice system, as well as with a view to promoting, inter alia, the use of alternative measures, such as diversion and restorative justice, and complying with the principle that deprivation of liberty of children should be used only as a measure of last resort and for the shortest appropriate period of time, as well as to avoid, wherever possible, the use of pretrial detention for children;

22. *Stresses* the importance of including reintegration strategies for former child offenders in juvenile justice policies, in particular through the provision of gender-sensitive education and life skills programmes, as well as treatment and services for substance abuse and mental health needs, with a view to their assuming a constructive role in society;

23. *Urges* States to take all necessary and effective measures, including legal reform where appropriate, to prevent and respond to all forms of violence against children within the justice system, including within the informal justice system, where it exists;

24. *Also urges* States to ensure that, under their legislation and practice, neither capital punishment nor life imprisonment without the possibility of release nor corporal punishment is imposed for offences committed by persons under 18 years of age, and encourages States to consider repealing all other forms of life imprisonment for offences committed by persons under 18 years of age;

25. *Encourages* States not to set the minimum age of criminal responsibility at too low an age level, bearing in mind the emotional, mental and intellectual maturity of the child, and in this respect notes the recommendation of the Committee on the Rights of the Child to increase the lower minimum age of criminal responsibility to the age of 12 years as the absolute minimum age, and to continue to increase it to a higher age level;[15]

26. *Also encourages* States to gather relevant information, including through data collection and research, concerning children within their criminal justice systems so as to improve their administration of justice, while being mindful of the children's right to privacy, with full respect for relevant international human rights instruments, and bearing in mind applicable international standards on human rights in the administration of justice;

27. *Stresses* the importance of paying greater attention to the impact on children of imprisonment or other sentences imposed upon their parents, while

noting with interest the convening of and reports on all relevant meetings and panel discussions on these issues held by the Human Rights Council;[22]

28. *Invites* Governments to provide for tailored and interdisciplinary human rights training, including anti-racist, multicultural, gender-sensitive and child rights training, to all judges, lawyers, prosecutors, social workers, immigration and police officers and other professionals concerned, including personnel deployed in international field presences;

29. *Encourages* the regional commissions, the specialized agencies, United Nations institutes active in the areas of human rights and crime prevention and criminal justice, and other relevant parts of the United Nations system, as well as intergovernmental and non-governmental organizations, including national professional associations concerned with promoting United Nations standards in this field, and other segments of civil society, including the media, to continue to develop their activities in promoting human rights in the administration of justice;

30. *Invites* States, upon their request, to benefit from technical advice and assistance in juvenile justice provided by the relevant United Nations entities and programmes, in particular the Interagency Panel on Juvenile Justice, in order to strengthen national capacities and infrastructures in the field of the administration of justice, in particular juvenile justice;

31. *Invites* the Human Rights Council and the Commission on Crime Prevention and Criminal Justice, as well as the Office of the High Commissioner, the Special Representative of the Secretary-General on Violence against Children and the United Nations Office on Drugs and Crime, to continue to closely coordinate their activities relating to the administration of justice;

32. *Invites* the Office of the High Commissioner and the United Nations Office on Drugs and Crime to reinforce, within their respective mandates, their activities relating to national capacity-building in the field of the administration of justice, in particular in post-conflict situations, and in this context to strengthen cooperation with relevant United Nations entities;

33. *Underlines* the importance of rebuilding and strengthening structures for the administration of justice and of respecting the rule of law and human rights, including in post-conflict situations, as a crucial contribution to building peace and justice and ending impunity, and in this respect requests the Secretary-General to further streamline and strengthen system-wide coordination and coherence of programmes and activities of the relevant parts of the United Nations system, including through the Rule of Law Coordination and Resource Group chaired by the Deputy Secretary-General, the Rule of Law Unit in the Executive Office of the Secretary-General and the joint global focal point for the police, justice and corrections areas in the rule of law in post-conflict and other crisis situations;

34. *Invites* States, in the context of the universal periodic review mechanism and in their reports under international human rights treaties, to consider addressing the promotion and protection of human rights in the administration of justice;

35. *Invites* relevant special procedure mandate holders of the Human Rights Council, as well as relevant treaty bodies, to give special attention to questions relating to the effective protection of human rights in the administration of justice, including juvenile justice, and to provide, wherever appropriate, specific

[22] A/HRC/21/31 and A/HRC/25/33.

recommendations in this regard, including proposals for advisory services and technical assistance measures;

36. *Requests* the Secretary-General to submit to the General Assembly at its seventy-first session a report on the latest developments, challenges and good practices in human rights in the administration of justice and on the activities undertaken by the United Nations system as a whole;

37. *Decides* to continue its consideration of the question of human rights in the administration of justice at its seventy-first session under the item entitled "Promotion and protection of human rights".

73rd plenary meeting
18 December 2014